

**FEB 20 1997**

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

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DONALD L. PETERSON,

Petitioner - Appellant,

v.

PEOPLE OF THE STATE OF  
COLORADO,

Respondent - Appellee.

No. 96-1358

D. Colorado

(D.C. No. 96-Y-140)

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**ORDER AND JUDGMENT\***

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Before **ANDERSON, HENRY**, and **BRISCOE**, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34 (a); 10th Cir. R. 34.1.9. This cause is therefore ordered submitted without oral argument.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Appellant Donald L. Peterson appeals from the district court's June 26, 1996, order denying his motion for reconsideration of its May 22, 1996, order remanding his criminal case to the Colorado Court of Appeals from which it was removed. The district court found that Peterson had no right to removal under any provision of 28 U.S.C. § 1443, that the removal notice was untimely filed under § 1446(c)(1), and that Peterson failed to comply with § 1446(a).

Having fully considered Mr. Peterson's arguments, we affirm the district court on the grounds and for the reasons stated in the district court orders referred to above.

In addition, we conclude that this appeal is frivolous within the meaning of 28 U.S.C. § 1915(g). Finally, the clerk of the court is directed to pursue the necessary declarations with respect to money available in the appellant's account for the payment of filing fees as provided in the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, § 804, 110 Stat. 1321.

AFFIRMED.

ENTERED FOR THE COURT

Stephen H. Anderson  
Circuit Judge